

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF MASSACHUSETTS

JUDITH THIBEAU,	)	
And GEORGE THIBEAU,	)	
Plaintiffs	)	
	)	
VS.	)	<b>CIVIL ACTION</b>
	)	<b>NO. 04-10643 LTS</b>
UNITED STATES OF AMERICA	)	
and EAST BOSTON NEIGHBORHOOD	)	
HEALTH CENTER CORPORATION,	)	
Defendants	)	

**DEFENDANT EAST BOSTON NEIGHBORHOOD HEALTH CENTER'S  
MOTION FOR SUMMARY JUDGMENT**

NOW COMES the defendant, East Boston Neighborhood Health Center ("EBNHC") and hereby moves pursuant to Rule 56 of the Federal Rules of Civil Procedure for summary judgment.

As grounds for this motion, the EBNHC states that it is entitled to summary judgment as the plaintiffs' expert proffer of a premises defect fails as a matter of law and as there is no duty to warn or instruct of the presence of the elevator as it is open and obvious. Further, EBNHC submits that it is a charitable organization under G.L. c. 231 §85K and is therefore entitled to charitable immunity and the legislated mandated cap on damages of \$20,000.00. The EBNHC otherwise refers and incorporates by reference its memorandum of law and accompanying exhibits.

WHEREFORE, the East Boston Neighborhood Health Center, respectfully requests that summary judgment enter in its favor on all claims pertaining to premises liability and/or in the

alternative, for an order that any damage award is limited by the charitable immunity cap set forth in G.L. c. 231 §85K.

The Defendant  
East Boston Neighborhood Health Center  
By its attorneys,

/s/ Tory A. Weigand

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 15, 2005, a true copy of the above document was served upon each counsel of record electronically through filing with the ECF system and that the referenced accompanying exhibits to the motion for summary judgment were served via first class mail upon all counsel of record.

/s/ Tory A. Weigand

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Tory A. Weigand